



STATE OF ILLINOIS  
**HEALTH FACILITIES AND SERVICES REVIEW BOARD**

525 WEST JEFFERSON ST. • SPRINGFIELD, ILLINOIS 62761 • (217) 782-3516 FAX: (217) 785-4111

<b>DOCKET NO:</b> H-05	<b>BOARD MEETING:</b> August 16, 2011	<b>PROJECT NO:</b> 11-022	<b>PROJECT COST:</b> Original: \$3,268,325
<b>FACILITY NAME:</b> Fresenius Medical Care Lockport		<b>CITY:</b> Lockport	
<b>TYPE OF PROJECT:</b> Substantive			<b>HSA: IX</b>

**DESCRIPTION:** Fresenius Medical Care Holdings, Inc., and Fresenius Medical Care Lockport, LLC (the applicants) are proposing the establishment of a 12-station End Stage Renal Dialysis (ESRD) facility located 8,000 GSF of leased space in Lockport. The cost of the project is \$3,268,325.



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### EXECUTIVE SUMMARY

#### PROJECT DESCRIPTION:

Fresenius Medical Care Holdings, Inc., and Fresenius Medical Care Lockport, LLC (the applicants) are proposing the establishment of a 12-station End Stage Renal Dialysis (ESRD) facility located 8,000 GSF of leased space in Lockport. The cost of the project is \$3,268,325. **The anticipated project completion date is August 1, 2013.**

#### WHY THE PROJECT IS BEFORE THE STATE BOARD:

- This project is before the State Board because the project proposes to establish a health care facility as defined by Illinois Health Facilities Planning Act.

#### PURPOSE OF THE PROJECT:

- The proposed project seeks to establish an ESRD facility and ESRD services in Lockport. **This project was originally approved as Project #09-037 in December 2009. The cost of that project was \$2,920,362. That project was abandoned in May 2011 due to issues with the developer.**

#### NEED FOR THE PROJECT:

- To establish an ESRD facility the applicants must demonstrate a calculated planning area need, the proposed ESRD service will provide service to the residents of the planning area, there is a demand for the proposed ESRD service, the ESRD service will improve access, and the service will not result in an unnecessary duplication or maldistribution of service.
- For this project, there is a **calculated excess of 55 stations** in the planning area. **80% of the pre ESRD patients** will come from within Will County (the planning area) and there are **97 pre ESRD patients** identified by the physicians that will need dialysis service within the next 1-3 years that will utilize the proposed facility. There is no lack of service within 30 minutes of the proposed facility as there are existing facilities operating below target occupancy and finally the proposed facility would appear to result in unnecessary duplication of service because there are existing services within 30 minutes operating at less than target occupancy.

#### BACKGROUND/COMPLIANCE ISSUES

- Neither applicant has outstanding compliance issues with the State Board.

#### PUBLIC HEARING/COMMENT

- No public hearing was requested and no letters of opposition or support for this project were received by the State Agency.



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**FINANCIAL AND ECONOMIC FEASIBILITY**

- The entirety of the project will be funded through internal sources (Cash and Securities/Fair Market Value of the Leases and a review of the financial statements indicate sufficient cash is available to fund the project.

**CONCLUSIONS:**

- There is a calculated excess of 55 stations in the HSA-09 ESRD service area. There are 10 facilities within 30 minutes operating at an average occupancy rate of 61%. Of these 10 facilities, 2 are still under construction, and 2 are operating above the target occupancy of 80%. The remaining 6 facilities are operating at an average utilization of 73% which is below the target occupancy of 80%. See Table Five below.

<b>State Board Standards Not Met</b>	
<b>Criteria</b>	<b>Reasons for Non-Compliance</b>
<b>1110.234(a) - Size of Project</b>	Size of project is 667 DGSF per station, which is over the maximum allowable size by 147 GSF. (State Standard: 520 GSF/station) The applicants explain that additional space is needed for home-training, office/support space, and options if future expansion becomes necessary.
<b>1110.1430(b) - Planning Are Need</b>	Per the July 2011 Inventory Update, HSA-09 has an excess of 55 ESRD stations, and six of the ten (60%) ESRD facilities in a 30-minute drive radius are operating below the occupancy target of 80%.
<b>1110.1430 (c) - Unnecessary Duplication/Mal distribution of Service</b>	60% (6 of 10 facilities) of the ESRD facilities within a 30-minute drive radius are operating beneath the 80 <sup>th</sup> percentile.



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**STATE AGENCY REPORT**  
**Fresenius Medical Care Lockport**  
**PROJECT #11-022**

Applicants	Fresenius Medical Care Holdings, Inc. Fresenius Medical Care Lockport, LLC
Facility Name	Fresenius Medical Care Lockport
Location	Lockport
Application Received	May 23, 2011
Application Deemed Complete	May 24, 2011
Review Period Ended	July 23, 2011
Review Period Extended by the State Agency	No
Public Hearing Requested	No
Applicants' Deferred Project	No
Can Applicants Request Another Deferral?	Yes
Applicants' Modified the Project	No

**I. The Proposed Project**

The State Board is being asked to consider the establishment of a 12-station ESRD facility in Lockport. The proposed facility will be located in 8,000 GSF of leased space, and the cost of the project is \$3,268,325.

**II. Summary of Findings**

- A. The State Agency finds the proposed project does **not** appear to be in conformance with the provisions of Part 1110.
- B. The State Agency finds the proposed project appears to be in conformance with the provisions of Part 1120.

**III. General Information**

The proposed facility will be located at 1165 East 9<sup>th</sup> Street, in Lockport. The applicants are Fresenius Medical Care Lockport, LLC, and Fresenius Medical Care Holdings, Inc. Fresenius Medical Care Holdings, Inc is the parent organization for all the entities and Archer Bank, Chicago, owns the site. Fresenius Medical Care Lockport, LLC d/b/a Fresenius Medical Care Lockport is the operating entity/licensee. The proposed facility will be located in HSA IX. HSA IX is comprised of Will, Kendall, Kankakee, and Grundy counties in Illinois.



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According to the October 2008 Inventory of Health Care Facilities, there are 14 other providers of ESRD services in the HSA, and an excess of 47 ESRD stations. The July 2011 update to the IDPH Inventory of Health Care Facilities (“Inventory”) shows a computed excess of 55 ESRD stations in HSA IX.

Table One list the ESRD facilities in HSA IX and their utilization.

TABLE ONE Facilities within the HSA IX ESRD Service Area					
Facility	Ownership	City	Stations	Utilization	Met Occupancy?
FMC Morris	Fresenius	Morris	9	74%	No
Silver Cross Renal Ctr.		Morris	9	38.9%	No
Yorkville Dialysis Ctr.		Yorkville	8	27%	No
FMC of Oswego	Fresenius	Oswego	10	88.3%	Yes
FMC of Plainfield	Fresenius	Plainfield	12	79.1%	No
Silver Cross Renal Ctr. West		Joliet	29	85%	Yes
Sun Health		Joliet	17	52.9%	No
FMC Bolingbrook	Fresenius	Bolingbrook	24	79.1%	No
FMC Joliet	Fresenius	Joliet	16	N/A*	N/A
Silver Cross Renal Ctr.		New Lenox	19	78%	No
Provena St. Mary’s Hospital		Kankakee	25	64.6%	No
Kankakee County Dialysis		Bourbonnais	12	54.1%	No
Manteno Dialysis Ctr.		Manteno	15	43.3%	No
FMC of Mokena	Fresenius	Mokena	12	72.2%	No

\*Facilities recently approved by the State Board not yet operational  
Utilization data taken from March 31, 2011 Renal Network Data

There is no land acquisition cost for this project, as the proposed facility will be leased space with the interior being built out by the applicant. This is a substantive project subject to both a Part 1110 and Part 1120 review. **A public hearing was offered on this project; however, no hearing was requested. The State Agency received no public comments regarding this project.** Project obligation will occur after permit issuance. The anticipated project completion date is August 1, 2013.



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**IV. The Proposed Project - Details**

The applicants propose to establish a 12 station ESRD facility housed in 8,000 Gross Square Feet (“GSF”) of leased space. The proposed facility will be located in Lockport, and the applicants note that it will build out the interior of the leased space, and the total estimated project cost is \$3,268,325.

**V. Project Costs and Sources of Funds**

The total estimated project cost is \$3,268,325. The proposed project is being funded with cash and securities totaling \$1,556,900, and leases with a Fair Market Value of \$1,711,425. Table Two outlines the project’s costs and uses of funds. The State Agency notes all costs are classified as being clinical.

<b>TABLE TWO</b>	
<b>Project Uses and Sources of Funds</b>	
<b>Uses of Funds</b>	<b>Clinical</b>
Modernization Contracts	\$1,044,000
Contingencies	\$104,400
A & E Fees	\$112,500
Moveable Equipment	\$296,000
Fair Market Value of Leased Space & Equipment	\$1,711,425
<b>Total Uses of Funds</b>	<b>\$3,268,325</b>
<b>Sources of Funds</b>	<b>Clinical</b>
Cash and Securities	\$1,556,900
Leases (fair market value)	\$1,711,425
<b>Total Sources of Funds</b>	<b>\$3,268,325</b>



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**VI. Cost/Space Requirements**

Table Three displays the project’s cost/space requirements for the project. The clinical portion comprises approximately 100% of the cost and GSF.

TABLE THREE							
Fresenius Medical Care Woodridge Cost/Space Allocation							
Clinical Department	Cost	Existing GSF	Proposed GSF	New	Modernized	Vacated	As Is
ESRD	\$3,268,325	0	8,000	0	8,000	0	0
<b>Total</b>	<b>\$3,268,325</b>	<b>0</b>	<b>8,000</b>	<b>0</b>	<b>8,000</b>	<b>0</b>	<b>0</b>

**VI I. Section 1110.230 - Project Purpose, Background and Alternatives**

**A. Criterion 1110.230(a) - Background of Applicant**

The Criterion states:

- “1) An applicant must demonstrate that it is fit, willing and able, and has the qualifications, background and character, to adequately provide a proper standard of health care service for the community. [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFPB shall consider whether adverse action has been taken against the applicant, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A health care facility is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by such person or entity (refer to 77 Ill. Adm. Code 1100 and 1130 for definitions of terms such as "adverse action", "ownership interest" and "principal shareholder").
- 2) Examples of facilities owned or operated by an applicant include:
  - A) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ, which manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.



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- B) The applicant, Healthy Hospital, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Ambulatory Surgical Treatment Center (ASTC), its wholly-owned subsidiary. The applicant, Healthy Hospital, owns and operates Healthcenter ASTC.
  - C) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns a hospital. The applicant, Dr. Wellcare, owns or operates the hospital.
  - D) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, that is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.
- 3) The applicant shall submit the following information:
- A) A listing of all health care facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, as applicable;
  - B) A certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application;
  - C) Authorization permitting HFPB and Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFPB.
- 4) If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest that the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit



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**amendments to previously submitted information, as needed to update and/or clarify data.**

The applicant provided a list of all health care facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, a certified statement from the applicant that no adverse action has been taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application, and authorization permitting HFPB and Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted. The applicants appear fit, willing and able and have the qualifications, background and character to adequately provide a proper standard of healthcare service for the community.

**B. Safety Net Impact Statement/Charity Care**

The establishment of the Fresenius Medical Care Lockport dialysis facility will not have any impact on safety net services in the community. Outpatient dialysis services are not typically considered "safety net" services, to the best of our knowledge. However, we do provide care for patients in the community who are economically challenged and/or who are undocumented aliens, who do not qualify for Medicare/Medicaid. We assist patients who do not have insurance in enrolling when possible in Medicaid and/or Medicaid as applicable, and also our social services department assists patients who have issues regarding transportation and/or who are wheel chair bound or have other disabilities which require assistance with respect to dialysis services and transport to and from the unit.

This particular application will not have an impact on any other safety net provider in the area, as no hospital within the area provides dialysis services on an outpatient basis.

Fresenius Medical Care is a for-profit publicly traded company and is not required to provide charity care, nor does it do so according to the Board's definition. However, Fresenius provides care to all patients regardless of their ability to pay. There are a number of patients treated by Fresenius who either do not qualify for or will not seek any type of coverage for dialysis services. These patients are considered "self-pay" patients. These



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patients are invoiced as all patients are invoiced, however payment is not expected and Fresenius does not initiate any collections activity on these accounts. These unpaid invoices are written off as bad debt. Fresenius notes that as a for profit entity, it does pay sales, real estate and income taxes. It also does provide community benefit by supporting various medical education activities and associations, such as the Renal Network and National Kidney Foundation.

The table below shows the amount of “self-pay” care provided for the 3 fiscal years prior to submission of the application for **all Fresenius Medical Care facilities in Illinois** and the amount of care provided to Medicaid patients for the three fiscal years prior to submission of the application for **all Fresenius Medical Care facilities in Illinois**. This includes in-center hemodialysis, peritoneal dialysis, home hemodialysis & sub-acute hemodialysis.

TABLE FOUR			
SAFETY NET INFORMATION			
Fresenius Medical Care facilities in Illinois			
CHARITY CARE			
	2008	2009	2010
Charity (# of self-pay patients)	305	260	146
Charity (self-pay) Cost	\$ 3,524,880	\$ 3,642,751	\$ 1,307,966
MEDICAID			
	2008	2009	2010
Medicaid (Patients)	1,626	1,783	1,828
Medicaid (Revenue)	\$ 37,043,006	\$ 40,401,403	\$ 44,001,539

**C. Criterion 1110.230(b) - Purpose of the Project**

The Criterion states:

The applicant shall document that the project will provide health services that improve the health care or well-being of the market area population to be served. The applicant shall define the planning area or market area, or other, per the applicant's definition.

- 1) The applicant shall address the purpose of the project, i.e.,



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identify the issues or problems that the project is proposing to address or solve. Information to be provided shall include, but is not limited to, identification of existing problems or issues that need to be addressed, as applicable and appropriate for the project. Examples of such information include:

- A) The area's demographics or characteristics (e.g., rapid area growth rate, increased aging population, higher or lower fertility rates) that may affect the need for services in the future;
  - B) The population's morbidity or mortality rates;
  - C) The incidence of various diseases in the area;
  - D) The population's financial ability to access health care (e.g., financial hardship, increased number of charity care patients, changes in the area population's insurance or managed care status);
  - E) The physical accessibility to necessary health care (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).
- 2) The applicant shall cite the source of the information (e.g., local health department Illinois Project for Local Assessment of Need (IPLAN) documents, Public Health Futures, local mental health plans, or other health assessment studies from governmental or academic and/or other independent sources).
  - 3) The applicant shall detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.
  - 4) For projects involving modernization, the applicant shall describe the conditions being upgraded. For facility projects, the applicant shall include statements of age and condition and any regulatory citations. For equipment being replaced, the applicant shall also include repair and maintenance records.

The applicants propose to establish a 12-station ESRD facility in 8,000 gross square feet of modernized, leased space. The applicants state that the purpose of the proposed project is to provide the residents of Lockport and surrounding communities with immediate access to dialysis service. A previous attempt to establish an ESRD facility in Lockport (application #09-037 FMC Lockport), was abandoned due to the developers inability to



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move forward with construction of the site, and the applicants desire to continue in their efforts to establish a 12-station facility in an area where neighboring ESRD facilities are either highly utilized, underutilized, or not yet operational. The applicants identified a service area in a 30-minute travel radius, encompassing most of HSA-09/Will County and a small portion of HSA-07/Cook County.

Table Five reflects facilities within a 30-minute timeframe and their utilization as supplied by the applicants. As seen in Table Five, there are 2 facilities that are not yet constructed, 6 facilities below the target occupancy of 80%, and 2 facilities that exceed the target occupancy of 80%.

TABLE FIVE						
Facilities within 30 minutes of the FMC Lockport <sup>(1)</sup>						
Facility	City	Minutes <sup>(1)</sup>	Miles	Stations	March 2011 Utilization	Met 80% Standard
Silver Cross Renal Ctr.	New Lenox	10.35	5.6	19	78%	No
FMC Joliet	Joliet	11.5	5.62	16	0.00%*	No
FMC Orland Park	Orland Park	16.1	9.98	18	74%	No
FMC Bolingbrook	Bolingbrook	20.7	12.4	24	79.1%	No
Sun Health	Joliet	21.85	9.58	17	52.9%	No
Palos Park Dialysis	Orland Park	21.85	12.86	12	0.00%*	No
FMC Mokena	Mokena	21.85	13.8	12	72.2%	No
Silver Cross Renal Ctr. West	Joliet	23	10.07	29	85%	Yes
Fresenius Plainfield	Plainfield	24.15	12.26	12	79.2%	No
FMC Willowbrook	Willowbrook	25.3	16.54	16	85.4%	Yes
<b>Average</b>					<b>61%</b>	
1. Mileage calculated using MapQuest. Time calculated per 77 IAC 1100.510 (d)						
2. *Recently approved facility, no data available.						

The applicants cited quantifiable goals as being the ability to improve access while monitoring patient demand, and that the facility will achieve quality outcomes as demonstrated by achieving 92% of patients having a URR greater than or equal to 65%, and 95% of patients having a Kt/V greater than or equal to 1.2.



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**D. Criterion 1110.230(c) - Alternatives to the Proposed Project**

The Criterion states:

“The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

- 1) Alternative options shall be addressed. Examples of alternative options include:
  - A) Proposing a project of greater or lesser scope and cost;
  - B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;
  - C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and
  - D) Other considerations.
- 2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of cost, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation.
- 3) The applicant shall provide empirical evidence, including quantified outcome data, that verifies improved quality of care, as available.”

The applicants propose a 12-station ESRD facility. The applicants considered the following alternatives:

**1. Utilize Other Health Care Resources**

The option of sending pre-ESRD patients to underutilized facilities in the area was determined to be unreasonable by the applicants, because of over-utilization at area facilities. The applicants stated the majority of the facilities in the Lockport market area were at target occupancy or close to it and the two facilities not yet constructed are supported by other physicians. The applicants also noted that residents rely on public



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transportation which in some instances makes access to nearby services difficult. **The applicants identified no cost with this alternative.**

**2. Propose a Project of Greater or Lesser Scope**

The applicants state an alternative of this nature was considered, but deemed it infeasible because the only option under this criterion would be to do nothing. The applicants believed doing nothing would leave the ESRD population in Lockport without reasonable access that they were promised in 2009 with Project #09-037. **There were no costs with this alternative.**

**3. Pursue a Joint Venture with Another Provider**

The applicants rejected this alternative, based on their business model which is to be wholly owned. The applicants have entered in to joint ventures in the past, but feel this option would be imprudent in this situation. The applicant identified this alternative as having 60% of the costs associated with the proposed project. **There was no cost provider with the alternative.**

**4. Project as Proposed**

The applicants chose this alternative, based on the need to keep access to dialysis in the Lockport/downtown Joliet area. The applicants stated that this was the most desirable alternative with the patients in mind, to continue with the previously approved facility in Lockport. The applicants anticipate significant growth in the identified service area, and a need for local ESRD services. **Cost of the proposed alternative: \$3,268,325.**

**VI. Section 1110.234 - Project Scope and Size, Utilization and Unfinished/Shell Space - Review Criteria**

**A) Size of Project**

The Criterion states:

**"The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive. The proposed**



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gross square footage (GSF) cannot exceed the GSF standards of Appendix B, unless the additional GSF can be justified by documenting one of the following:

- 1) Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;
- 2) The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix B;
- 3) The project involves the conversion of existing bed space that results in excess square footage."

The applicants propose to establish a 12 station ESRD facility in 8,000 GSF of leased space. The State board standard is 360-520 GSF per station. The applicants note the project is allocating 667 GSF per station, which exceeds the standard. The applicants explain that additional space is needed for home-training, office/support space, and options if future expansion becomes necessary. Table Six illustrates the spatial configuration, and the mentioned overage.

TABLE SIX SIZE OF PROJECT 11-021 FMC Lockport				
Department /Service	Proposed BGSF/DGSF	State Standard	Difference	Met Standard?
ESRD Facility	8,000 GSF (12 Stations)	360-520 DGSF (667GSF/Station)	147 DGSF Over	No

**THE STATE AGENCY FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH THE SIZE OF PROJECT CRITERION (77 IAC 1110.234(a)).**

**B) Criterion 1110.234 (b) - Project Services Utilization**

The applicant shall document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B. The number of years projected shall not exceed the number of historical years documented. If the applicant does not meet the utilization standards in Appendix B, or if service areas do not have utilization standards in 77 Ill. Adm. Code 1100, the applicant shall



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**justify its own utilization standard by providing published data or studies, as applicable and available from a recognized source, that minimally include the following:**

The applicants have identified 97 pre-ESRD patients from the Lockport area who are expected to be referred to the proposed facility, once completed. The applicants have documented by the second year after project completion (2015), they will be above the State Board's target occupancy of 80% (Application, P. 45).

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PROJECTED SERVICES UTILIZATION CRITERION (77 IAC 1110.234(b)).**

**IX. Section 1110.1430 - In-Center Hemodialysis Projects - Review Criteria**

**The criterion for establishing an ESRD facility reads as follows:**

- 1) 77 Ill. Adm. Code 1100 (formula calculation)**
  - A) The number of stations to be established for in-center hemodialysis is in conformance with the projected station deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.**
  - B) The number of stations proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the utilization standard specified in 77 Ill. Adm. Code 1100.**
- 2) Service to Planning Area Residents**
  - A) Applicants proposing to establish or add stations shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.**



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B) Applicants proposing to add stations to an existing in-center hemodialysis service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.

C) Applicants proposing to expand an existing in-center hemodialysis service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility).

3) **Service Demand - Establishment of In-Center Hemodialysis Service**

The number of stations proposed to establish a new in-center hemodialysis service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new facility, the applicant shall submit projected referrals. The applicant shall document subsection (b)(3)(A) and either subsection (b)(3)(B) or (C).

A) **Historical Referrals**

i) If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of service, for each of the latest two years.

ii) Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient facility.

B) **Projected Referrals**



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**The applicant shall provide physician referral letters that attest to:**

- i) The physician's total number of patients (by facility and zip code of residence) who have received care at existing facilities located in the area, as reported to The Renal Network at the end of the year for the most recent three years and the end of the most recent quarter;**
- ii) The number of new patients (by facility and zip code of residence) located in the area, as reported to The Renal Network, that the physician referred for in-center hemodialysis for the most recent year;**
- iii) An estimated number of patients (transfers from existing facilities and pre-ESRD, as well as respective zip codes of residence) that the physician will refer annually to the applicant's facility within a 24-month period after project completion, based upon the physician's practice experience. The anticipated number of referrals cannot exceed the physician's documented historical caseload;**
- iv) An estimated number of existing patients who are not expected to continue requiring in-center hemodialysis services due to a change in health status (e.g., the patients received kidney transplants or expired);**
- v) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty;**
- VI ) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services; and**



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VI i) Each referral letter shall contain a statement attesting that the information submitted is true and correct, to the best of the physician's belief.

5) **Service Accessibility**

The number of stations being established or added for the subject category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) **Service Restrictions**

The applicant shall document that at least one of the following factors exists in the planning area:

- i) The absence of the proposed service within the planning area;
- ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;
- iii) Restrictive admission policies of existing providers;
- iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;
- v) For purposes of this subsection (b)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

b) **Planning Area Need Review Criterion**



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**The applicant shall document that the number of stations to be established or added is necessary to serve the planning area's population, based on the following:**

**1) 77 Ill. Adm. Code 1100 (formula calculation)**

According to the July 2011 update to the IDPH Inventory of Health Care Facilities ("Inventory"), HSA-09 shows a computed excess of 55 ESRD stations. This project is requesting 12 stations in 8,000 GSF of leased space in Lockport.

**2) Service to Planning Area Residents**

The primary purpose of this project is to provide in-center ESRD services to the residents of HSA-09, and more specifically the downtown Joliet/Lockport areas. The applicants state that they anticipate 80% of their patient base originating from Will County (HSA-09), and 20% originating from Cook County (HSA-07) (Application, p. 47).

**3) Service Demand**

The applicants submitted a referral letters from Drs. Ronald Hamburger M.D. and Dr. Daniel McCormick, M.D., from Southwest Nephrology Associates, S.C., identifying 97 pre-ESRD patients that the doctors and their other practicing colleagues at SWNA will refer to the proposed within 24 months of project completion (Application, pgs. 48-63).

**4) Service Accessibility**

The applicants state that the issue of access is problematic due to current facilities operating at high utilization levels and several facilities identified in the service area still being constructed. The applicants identified 10 ESRD facilities in a 30 minute drive radius. Of these facilities, 2 (20%) facilities were operating above the 80% target occupancy, while two other facilities reported no data because they were still being built. Of the remaining 6 facilities none were at the target occupancy of 80%.



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The applicants cited high utilization and service demand in the service area as basis for the proposed project. However, the applicant identified 6 out of 10 area facilities performing below the target occupancy of 80%, with two more facilities scheduled to open in the future. This, combined with a current excess of 55 ESRD stations in the planning area, has resulted in a negative finding for this criteria.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH THE PLANNING AREA NEED CRITERION (77 IAC 1110.1430(b)).**

**c) Unnecessary Duplication / Maldistribution Review Criterion**

- 1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:
  - A) A list of all zip code areas that is located, in total or in part, within 30 minutes normal travel time of the project's site;
  - B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and
  - C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of station service that are proposed by the project.
- 2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, stations and services characterized by such factors as, but not limited to:
  - A) A ratio of stations to population that exceeds one and one-half times the State average;
  - B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and



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- services that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100; or**
- C) Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above utilization standards.**
- 3) The applicant shall document that, within 24 months after project completion, the proposed project:**
- A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and**
  - B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.**

The applicants provided a list of all zip code areas that are located within 30 minutes of the proposed site as required. The applicants state that the ratio of ESRD stations to population is 1 per 5,943 according to the 2000 census. The applicants acknowledge that Will County, according to the 2010 census, has increased its population by 37%, and should result in a projected station to population ratio that exceeds allowable standards.

The applicants acknowledge that all facilities in the 30-minute drive radius are not operating in excess of the operating standard of 80%, and that an excess of 55 ESRD stations exist in HSA-09. However, the fact that the service area is experiencing tremendous growth that access issues exist for downtown Joliet/Lockport citizens and the confirmed referral of 97 pre-ESRD to the proposed facility is sufficient justification for the establishment of a 12-station ESRD facility in Lockport.

The applicants state that the project will not have an adverse impact on area providers, based on the number of pre-ESRD patients currently under the care of SWNA physicians. It is noted that these physicians will be referring these patients to the proposed facility and other facilities in the area as well. However, Table Five does show that six of the ten facilities in the 30-minute drive radius are operating below the 80<sup>th</sup>



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percentile for capacity, and that two additional facilities will be introduced to the service area before completion of the proposed project. Based on these findings, a positive finding cannot be made for this criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH THE UNNECESSARY DUPLICATION/MALDISTRIBUTION CRITERION (77 IAC 1110.1430 (b)).**

**C) Staffing - Availability**

The Criterion states:

**“The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure and JCAHO staffing requirements can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.**

**1) Qualifications**

- A) Medical Director - Medical direction of the facility shall be vested in a physician who has completed a board-approved training program in nephrology and has at least 12 months experience providing care to patients receiving dialysis.**
- B) Registered Nurse - The nurse responsible for nursing services in the unit shall be a registered nurse (RN) who meets the practice requirements of the State of Illinois and has at least 12 months experience in providing nursing care to patients on maintenance dialysis.**
- C) Dialysis Technician - This individual shall meet all applicable State of Illinois requirements (see 210 ILCS 62, the End Stage Renal Disease Facility Act). In addition, the applicant shall document its requirements for training and continuing education.**
- D) Dietitian - This individual shall be a registered dietitian with the Commission on Dietetic Registration, meet the practice requirements of the State of Illinois (see the**



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**Dietetic and Nutrition Services Practice Act [225 ILCS 30]) and have a minimum of one year of professional work experience in clinical nutrition as a registered dietitian.**

- E) Social Worker - The individual responsible for social services shall have a Master's of Social Work and meet the State of Illinois requirements (see 225 ILCS 20, the Clinical Social Work and Social Work Practice Act)."**

The applicants are proposing to establish a 12-station ESRD facility and have provided the necessary information as required by this criterion on pages 69-79 of the application for permit.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE STAFFING CRITERION (77 IAC 1110.1430 (e)(1)).**

**D) Support Services**

The Criteria states:

**"An applicant proposing to establish an in-center hemodialysis category of service must submit a certification from an authorized representative that attests to each of the following:**

- 1) Participation in a dialysis data system;**
- 2) Availability of support services consisting of clinical laboratory service, blood bank, nutrition, rehabilitation, psychiatric and social services; and**
- 3) Provision of training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training provided at the proposed facility, or the existence of a signed, written agreement for provision of these services with another facility."**

The applicants are proposing to establish a 12-station ESRD facility and have provided the necessary documentation as required by this criterion on page 80 of the application for permit. The applicants note Provena St. Joseph Medical Center, Joliet, will provide Blood bank, Rehabilitation, and Psychiatric services.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE SUPPORT SERVICES CRITERION (77**



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IAC 1110.1430 (f)).

E) Assurances

The Criterion states:

**"The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that:**

- 1) By the second year of operation after the project completion, the applicant will achieve and maintain the utilization standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal; and**
- 2) An applicant proposing to expand or relocate in-center hemodialysis stations will achieve and maintain compliance with the following adequacy of hemodialysis outcome measures for the latest 12-month period for which data are available:  
≥ 85% of hemodialysis patient population achieves area reduction ratio (URR) ≥ 65% and ≥ 85% of hemodialysis patient population achieves Kt/V Daugirdas .1.2."**

The applicants provided the required certification information on page 83 of the application for permit as required of the criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE ASSURANCES CRITERION (77 IAC 1110.1430 (j)).**

g) **Minimum Number of Stations**

**The minimum number of in-center hemodialysis stations for an End Stage Renal Disease (ESRD) facility is:**

- 1) Four dialysis stations for facilities outside an MSA;**
- 2) Eight dialysis stations for a facility within an MSA.**

The proposed 12 station ESRD facility will be located in an MSA. The applicants have met the requirements of this criterion

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS**



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**TO BE IN CONFORMANCE WITH THE MINIMUM NUMBER OF STATIONS CRITERION (77 IAC 1110.1430 (g)).**

**h) Continuity of Care**

**An applicant proposing to establish an in-center hemodialysis category of service shall document that a signed, written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.**

The applicants have provided the required affiliation agreement on page 82 of the application for permit. The transfer agreement is with Provena St. Joseph Medical Center, Joliet. The applicants have met the requirements of this criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE CONTINUITY OF CARE CRITERION (77 IAC 1110.1430 (h)).**

**X. 1120.120 - Availability of Funds**

**The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources.**

The applicants are funding the project with cash and securities of \$1,556,900 and the FMV of the lease of \$1,711,425. A review of the applicants' financial statements indicates that sufficient cash is available to fund the project.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE AVAILABILITY OF FUNDS CRITERION (77 IAC 1120.120 (a)).**

**XI. 1120.130 - Financial Feasibility**

**A. Criterion 1120.130 - Financial Viability**

**Financial Viability Waiver**



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The applicant is NOT required to submit financial viability ratios if:

- 1) all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or

**HFSRB NOTE:** Documentation of internal resources availability shall be available as of the date the application is deemed complete.

- 2) the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA), or its equivalent; or

**HFSRB NOTE:** MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.

- 3) the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.

The applicants have qualified for the financial waiver because the project is being funded with internal sources including capital expended through a lease. The applicants are funding the project with cash and securities of \$1,556,900 and the FMV of the lease of \$1,711,425. A review of the applicants' audited financial statements indicates that sufficient cash is available to fund the project.

Table Six outlines Fresenius Medical Care credit rating from all three credit rating agencies. These credit ratings are **opinions** of the three rating agencies on the ability of a corporation to meet its financial obligation on time and in full.

TABLE SIX Fresenius Credit Rating
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	Standard & Poor's	Moody's	Fitch
Corporate Credit Rating	BB	Ba1	BB
Outlook	positive	stable	positive
BB—Less vulnerable in the near-term but faces major ongoing uncertainties to adverse business, financial and economic conditions. Ba1-Speculative investment. Occurs often in deteriorated circumstances, usually problematic to predict future development 'BB'- ratings indicate an elevated vulnerability to default risk, particularly in the event of adverse changes in business or economic conditions over time; however, business or financial flexibility exists which supports the servicing of financial commitments			

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE FINANCIAL FEASIBILITY CRITERION (77 IAC 1120.130 (a)).**

**XII. Section 1120.140 - Economic Feasibility**

**A. Criterion 1120.140(a) - Reasonableness of Financing Arrangements**

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

- 1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or
- 2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:
  - A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or
  - B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.



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The applicants are funding the project with cash and securities of \$1,556,900 and the FMV of the lease of \$1,711,425. The applicants have provided the necessary attestation that borrowing (leasing) is less costly than the liquidation of existing investments. The applicants have met the requirements of this criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE REASONABLENESS OF FINANCING ARRANGEMENTS CRITERION (77 IAC 1120.140(a)).**

**B. Criterion 1120.140(b) - Terms of Debt Financing**

**This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:**

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;**
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;**
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.**

The applicants are funding the project with cash and securities of \$1,556,900 and the FMV of the lease of \$1,711,425. The applicants have attested that the selected form of debt financing (leasing) will be at the lower net cost available to the applicants. The applicants have met the requirements of this criterion.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE TERMS OF DEBT FINANCING CRITERION (77 IAC 1120.140(b)).**



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**C. Criterion 1120.140(c) - Reasonableness of Project Cost**

The applicant shall document that the estimated project costs are reasonable and shall document compliance with the State Board's standards as detailed in 77 IAC 1120.

**Modernization Contracts and Contingencies** - These costs total \$1,148,400 or \$143.55 per gross square feet. ( $\$1,148,400/8,000 \text{ GSF} = \$143.55/\text{GSF}$ ) This appears reasonable when compared to the State Board standard of \$149.35/GSF.

**Contingencies** - These costs total \$104,400. These costs are 10% of modernization costs. This appears reasonable when compared to the State Board standard of 10%-15% of modernization costs.

**Architect and Engineering Fees** - These costs total \$112,500 or 9.7% of modernization and contingency costs. This appears reasonable when compared to the State Board standard of 7.08% to 10.62% of modernization and contingency costs.

**Moveable Equipment** - These costs total \$296,000 or \$24,666 per station. This appears reasonable when compared to the State Board standard of \$39,945.

**Fair Market Value of Leased Space** - These costs are \$1,711,425. The State Board does not have a standard for these costs.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE REASONABLENESS OF PROJECT COST CRITERION (77 IAC 1120.140 (c)).**

**D) Criterion 1120.140 (d) - Projected Operating Costs**

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.



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The applicants anticipate the direct operating costs per treatment to be \$92.00. The State Board does not have a standard for these costs.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PROJECT DIRECT OPERATING COSTS CRITERION (77 IAC 1120.140 (d)).**

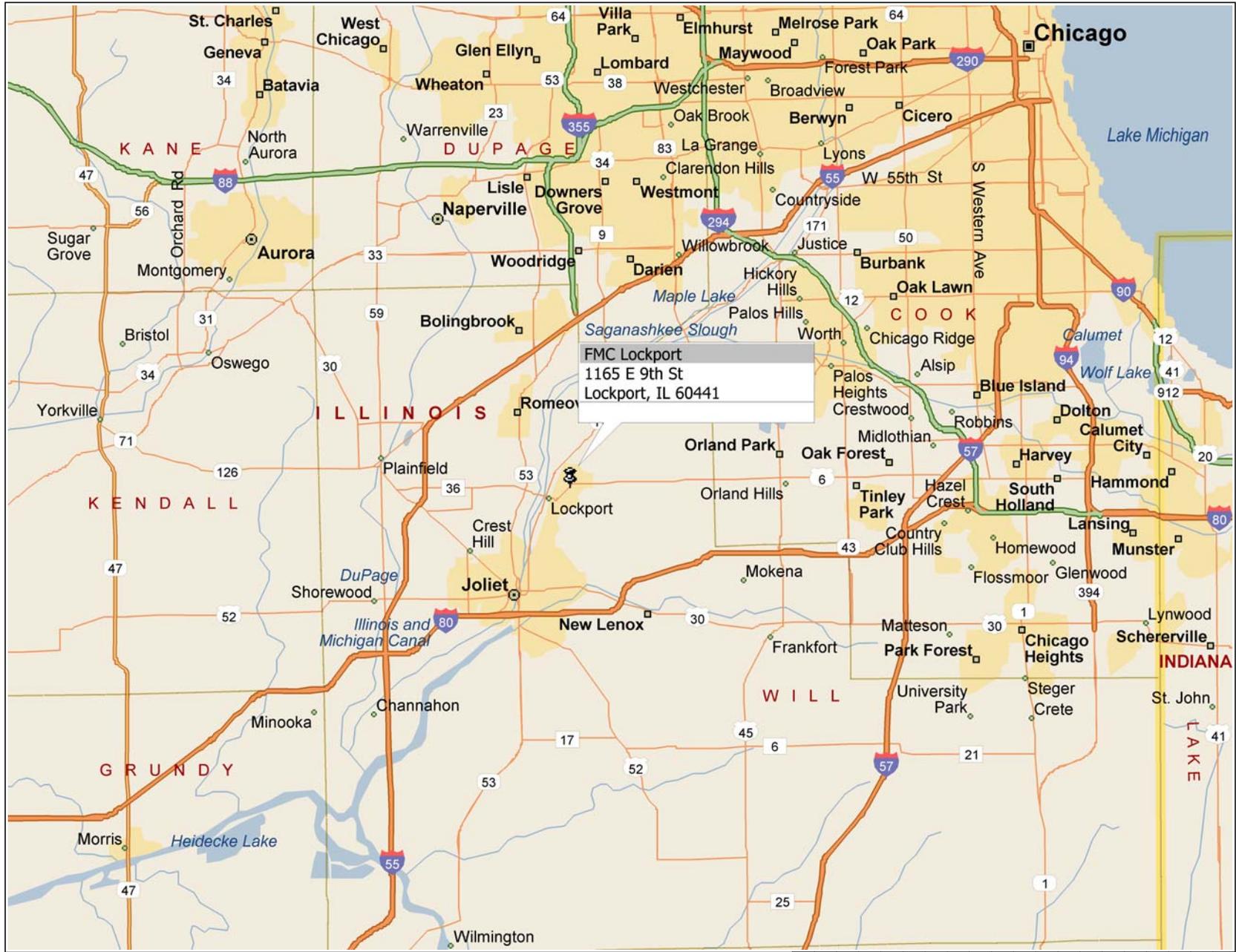
**E) Criterion 1120.140 (e) - Total Effect of the Project on Capital Costs**

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

The applicants anticipate the total effect of the Project on Capital Costs per treatment to be \$8.73. The State Board does not have a standard for these costs.

**THE STATE AGENCY FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS CRITERION (77 IAC 1120.140 (e)).**

# 11-022 FMC Lockport - Lockport



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